

<hr/>	:	UNITED STATES DISTRICT COURT
ELIE C. JONES,	:	DISTRICT OF NEW JERSEY
	:	
Plaintiff,	:	
	:	
-vs-	:	Civil Action No. 09-5419 (SDW)
	:	
EPIC CAR AND TRUCK RENTAL	:	<u>REPORT AND RECOMMENDATION</u>
& SALES,	:	
	:	
Defendant,	:	
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BACKGROUND

On November 2, 2009, pro se plaintiff, Elie Jones (“plaintiff”), filed the complaint. On November 25, 2009, defendant Epic Car and Truck Rental & Sales (“Epic”) filed an Answer to the Complaint.

On February 25, 2010, this Court issued an Order, scheduling a settlement conference for March 18, 2010. On March 5, 2010, attorney Frank Campisano (“Campisano”) on behalf of the law firm of Sedita, Campisano, & Campisano, LLC, filed a motion to be relieved as counsel for Epic. On March 17, 2010, this Court issued an Order, adjourning the settlement conference until April 9, 2010.

On March 18, 2010, this Court issued an Order, granting the motion to withdraw and directing, among other things, that Campisano provide a copy of the Order to his clients. This Court further directed Epic, which is a corporate entity, to have new counsel enter an appearance on its behalf no later than April 30, 2010, as corporate entities cannot represent themselves under applicable law. The Court also advised that, if counsel failed to enter an appearance on behalf of Epic by April 30, 2010, this Court would ask the District Court to strike the answer and enter default

against it.

All parties were directed to appear for status conference on May 3, 2010 at 12:30 p.m.. The March 18, 2010 Order admonished that failure to appear would result in sanctions.

On May 3, 2010, no party or counsel appeared on behalf of Epic. Only plaintiff appeared at the conference. To date, no one has appeared or contacted the Court on behalf of Epic.

Pursuant to settled Third Circuit law, corporations cannot represent themselves pro se. See Simbrow v. United States, 367 F.2d 373, 374 (3d Cir. 1966). Despite repeated admonitions, Epic has not retained counsel, appeared at the status conference or otherwise contacted the Court. Therefore, I recommend that the District Court strike the Answer of corporate defendant Epic Car & Truck Rental & Sales (Docket Entry No. 6), and that plaintiff be allowed to proceed to judgment by default as to Epic Car & Truck Rental & Sales and enter default against it. The parties have fourteen (14) days from the date hereof to file and serve objections.

Respectfully submitted,

s/Madeline Cox Arleo
MADELINE COX ARLEO
United States Magistrate Judge

Dated: July 1, 2010

Orig.: Clerk of the Court
cc: Hon. Susan D. Wigenton, U.S.D.J.
All Parties
File